

1 (f) *Modifications after department review.* If the local governmental unit modifies an
2 ordinance following receipt of the department report, whether or not the modification is in
3 response to the department report, the local governmental unit shall submit the ordinance in
4 final form to the department prior to enactment. The modified ordinance does not require
5 review under this subsection if the modifications relate to the subject matter of the ordinance
6 submitted to the department under par. (b).

NOTE: This provision is not expressly stated in the current statute. However, it is implied by the statement in current s. 30.77 (3) (d) that local regulations must be submitted to the DNR at least 60 days prior to "final action" by the local governmental unit.

7 (g) *Validity of ordinance.* 1. An ordinance is not valid unless the local governmental
8 unit complies with all procedural requirements imposed on local governmental units by this
9 section and the contents of the ordinance comply with this section.

NOTE: This provides an express statement of the requirement for a local governmental unit to comply with procedural and substantive requirements of s. 30.77. This requirement can be reasonably implied from the language in the current statute. Ordinances must also conform to the constitutional public trust in navigable waters.

10 2. The department report under this subsection is advisory only and does not affect the
11 validity of a local regulation.

NOTE: This provision is new. Although not expressed in the current statute, this appears to be the legal effect of DNR review. The phrase "advisory review" is used in current s. 30.77 (3) (d).

12 (h) A local governmental unit that enacts, amends or repeals an ordinance under this
13 section shall file a signed copy of the ordinance, amendment or repeal with the department.
14 The department shall retain a copy of each ordinance submitted under this subsection.

15 (11) **OBJECTION PROCEDURE.** (a) The procedure under par. (c) applies if any of the
16 following object to an ordinance enacted under this section:

- 1 1. A local governmental unit.
- 2 2. A qualified lake association, as defined in s. 281.68 (1) (b).
- 3 3. A nonprofit conservation organization, as defined in s. 23.0955 (1).
- 4 4. A local governmental unit, as defined in s. 66.0131 (1) (a), that is established for the
5 purpose of lake management.
- 6 5. A nonstock corporation organized under ch. 181 whose primary purpose is to
7 promote boating activities.
- 8 6. The department.
- 9 (b) The grounds for an objection under par. (a) are that any portion of the ordinance does
10 not comply with this section.

NOTE: The current statute allows an objection on the grounds that an ordinance is contrary to or inconsistent with ch. 30. The reference to all of ch. 30 does not appear to be appropriate because s. 30.77 relates only to a local authority to enact ordinances related to ss. 30.50 to 30.71. Therefore, this reference is changed to "this section" which incorporates the new definition of "state regulation".

The grounds for objection in current law are that the ordinance is "contrary to or inconsistent with" the statute. The proposal above allows an objection on the grounds that the ordinance "does not comply with" the statute. This expands the scope of the current grounds for objection by allowing objection based on any failure of a local governmental unit to comply with s. 30.77, such as failure to comply with procedural requirements.

The current statute allows an objection to an ordinance that applies to a river or stream on the grounds that the ordinance is "not necessary for public health, safety, welfare or the public's interest in preserving the state's natural resources". This standard sets a much lower threshold for challenging ordinances, making it much more difficult for a local governmental unit to defend the ordinance. As redrafted, the standards in this section provide sufficient guidance and limitations for protecting the public by reference to compliance with s. 30.77. Therefore, the "not necessary" standard is deleted.

1 (c) 1. Upon receipt of an objection under par. (a), the department shall order a hearing
2 on the objection under ch. 227. The hearing shall be a contested case hearing, and the
3 administrator of the division of hearings and appeals in the department of administration shall
4 assign a hearing examiner to the hearing as provided in s. 227.43. Persons who are not parties
5 to the contested case may present testimony and evidence at the hearing.

6 2. The hearing examiner shall issue an order on the objection within 90 days after the
7 date on which the hearing is ordered.

8 3. If the hearing examiner determines that the grounds for an objection under par. (b)
9 apply to the ordinance or a portion of it, the hearing examiner shall issue an order declaring
10 the ordinance or a portion of it void and prohibiting the enforcement of the ordinance or that
11 portion of the ordinance.

12 (d) The procedure under this subsection does not supersede any other legal right or
13 procedure that a person has to contest an ordinance enacted under this section.

14 **SECTION 205.** 30.771 of the statutes is created to read:

15 **30.771 Emergency powers; local regulation of boating.** (1) The sheriff may issue
16 emergency regulations applicable to boating on any waters of this state within the county. The
17 emergency regulations shall be issued in written form, and the sheriff shall include with the
18 emergency regulations the findings of fact that support the need for the emergency regulations.
19 The emergency regulations may establish slow-no-wake zones and may prohibit boats from
20 designated areas. The emergency regulations may not be more restrictive than is necessary
21 to address the emergency conditions. The emergency regulations shall apply for a term
22 specified by the sheriff, not to exceed 30 days. The sheriff may reissue emergency regulations
23 upon expiration of the prior emergency regulations. The sheriff shall publish and post the
24 emergency regulations in a manner likely to give notice to users of the waters of this state that

1 are subject to the emergency regulation and may mark or require the marking of the waters
2 subject to the regulation by regulatory markers, if appropriate for the purpose of the regulation.

3 (2) A town, village or city may issue emergency regulations in connection with a
4 construction project in any waters of this state that are within the jurisdiction of or adjacent
5 to the town, village or city. The emergency regulations shall be issued in written form. The
6 emergency regulations may establish slow-no-wake zones and may prohibit boats from
7 designated areas. The emergency regulations may not be more restrictive than is necessary
8 to address the conditions related to the construction project. The emergency regulations shall
9 apply for the duration of the construction project or 30 days, whichever is less. If necessary,
10 the town, village or city may reissue the emergency regulations upon expiration of the prior
11 emergency regulations. The town, village or city shall publish and post the emergency
12 regulations in a manner likely to give notice to users of the waters of this state that are subject
13 to the emergency regulation, and shall mark or require the marking of the waters subject to
14 the regulation by appropriate regulatory markers.

15 (3) Emergency regulations under this section are not subject to the procedures in s.
16 30.77, except that objection may be made to emergency regulations under this section using
17 the procedures in s. 30.77 (11).

18 (4) If waters subject to emergency regulations under sub. (1) or (2) are marked with
19 regulatory markers, the sheriff or the town, village or city shall obtain department approval
20 of the regulatory markers. The sheriff or the town, village or city may place the markers after
21 obtaining department approval or, in cases requiring immediate placement of markers, the
22 sheriff or the town, village or city may place the markers and immediately notify the boating
23 law administrator of the department that the emergency regulation is in effect and the markers
24 have been placed. The department shall issue its approval or disapproval of regulatory

1 markers under sub. (1) or (2) within 2 working days after receiving a request for approval from
2 the sheriff or the town, village or city. If the department disapproves regulatory markers after
3 the sheriff or the town, village or city has placed them, the markers shall be immediately
4 removed.

NOTE: This section codifies what apparently is the current practice of sheriffs in this state, and places some limits on the emergency regulations. Although the emergency regulations are not subject to the procedures and standards for local ordinances under s. 30.77, there should be a means to object to unreasonable emergency regulations. This provision allows an objection using the procedures in s. 30.77. However, the grounds for objection are the standards in new s. 30.771, rather than the standards in s. 30.77.

5 **SECTION 206.** 30.772 (4) of the statutes is amended to read:

6 30.772 (4) DEPARTMENT PERMITS. The department may issue a permit authorizing the
7 placement or use of a mooring beyond 150 feet from the ordinary high-water mark if the
8 municipality does not have an established permit procedure, or more than 200 feet from the
9 ordinary high-water mark if sub. (3) (a) 5. applies. The department may place conditions or
10 restrictions on any permit issued under this subsection. The decision of the department under
11 this subsection is subject to the time limits in s. 30.251.

12 **SECTION 207.** 30.78 (1) (title) and (intro.) of the statutes are repealed and recreated to
13 read:

14 30.78 (1) (title) LOCAL REGULATION AUTHORIZED. (intro.) A local governmental unit, as
15 defined in s. 30.77 (1) (b), that has jurisdiction under s. 30.77 (4), (6) and (7) may, after public
16 hearing, by ordinance:

17 **SECTION 208.** 30.78 (1g) of the statutes is repealed.

NOTE: The amendments to s. 30.78 expand the scope of local regulation of seaplanes, so that any local governmental unit that has jurisdiction and current authority to enact local ordinances under s. 30.77 may also enact ordinances for seaplanes. This authority applies to the same waters that

may be regulated by the local governmental unit under s. 30.77. Although s. 30.77 is used to define the scope of local authority to regulate seaplanes, it should be noted that the procedures in s. 30.77 do not apply to these ordinances.

1 **SECTION 209.** 30.78 (1r) and (2) of the statutes are amended to read:

2 **30.78 (1r) NOTICE TO DEPARTMENT OF TRANSPORTATION.** The department of
3 transportation shall receive timely notice of the public hearing required under ~~subs.~~ sub. (1)
4 ~~and (1g)~~ and shall have an opportunity to present testimony on the proposed ordinance. An
5 ordinance under sub. (1) (b) ~~or (1g)~~ that regulates or restricts an area of surface waters for
6 landing or take-off purposes shall be filed with the department of transportation.

7 **(2) MARKING OF REGULATED OR RESTRICTED AREAS.** ~~Any ordinance~~ A local regulation
8 that regulates or restricts an area of surface waters under sub. (1) ~~or (1g)~~ shall direct that the
9 area be marked by standard marking devices.

10 **SECTION 210.** 30.78 (3) of the statutes is repealed.

11 **SECTION 211.** 30.79 (1) (a) and (b) 2. of the statutes are amended to read:

12 **30.79 (1) (a)** "Local governmental unit" ~~means a municipality, a public inland lake~~
13 ~~protection and rehabilitation district or a lake sanitary district~~ has the meaning given in s. 30.50
14 (4u).

15 **(b) 2.** A unit created by ~~a public inland lake protection and rehabilitation district, by a~~
16 ~~lake sanitary district or by a number of~~ one or more local governmental units riparian to a
17 single lake, ~~at least one of which is a lake district or a lake sanitary district,~~ for the purposes
18 specified in subd. 1.

19 **SECTION 212.** 30.79 (1) (b) 1., (2), (3) and (4) of the statutes are amended to read:

20 **30.79 (1) (b) 1.** A unit within an existing municipal law enforcement agency or a
21 separate municipal agency, created by a municipality or by a number of municipalities riparian

1 to a single body of water for the purpose of enforcing ss. 30.50 to 30.80 and any rules
2 ~~promulgated~~ and ordinances enacted under ~~ss. 30.50 to 30.80~~ s. 30.77 and for the purpose of
3 conducting search and rescue operations.

4 (2) STATE AID. In order to protect public rights in navigable waters and to promote public
5 health, safety and welfare and the prudent and equitable use of the navigable waters of the
6 state, a system of state aids for local enforcement of ss. 30.50 to 30.80 and ordinances enacted
7 under ~~ss. 30.50 to 30.80~~ s. 30.77 and for conducting search and rescue operations is
8 established.

9 (3) ENFORCEMENT POWERS. Officers patrolling the waters as part of a water safety patrol
10 unit may stop and board any boat for the purpose of enforcing ss. 30.50 to 30.80 or any rules
11 ~~promulgated~~ or ordinances enacted under ~~ss. 30.50 to 30.80~~ s. 30.77 and for conducting search
12 and rescue operations, if the officers have reasonable cause to believe there is a violation of
13 the sections, rules or ordinances or the stopping and boarding of any boat is essential to
14 conduct a search and rescue operation.

15 (4) JURISDICTION. Upon petition by any local governmental unit or group of local
16 governmental units operating or intending to operate a water safety patrol unit, the department
17 shall, if it finds that it is in the interest of efficient and effective enforcement to do so, by rule
18 define the waters which may be patrolled by the unit, including waters lying within the
19 territorial jurisdiction of some other town, village or city if the town, village or city consents
20 to the patrol of its waters. Such consent is not required if the petitioner is a local governmental
21 unit containing a population of 5,000 or more, bordering upon the waters to be affected by the
22 rule in counties having a population of less than 500,000. Officers patrolling the waters as part
23 of the water safety patrol unit shall have the powers of sheriff in enforcing ss. 30.50 to 30.80,
24 or ~~rules promulgated~~ or ordinances enacted under ~~ss. 30.50 to 30.80~~ s. 30.77 and in conducting

1 search and rescue operations, on any of the waters so defined, whether or not the waters are
2 within the jurisdiction of the local governmental unit for other purposes.

NOTE: Section 30.5005 (1) (b), as created by this draft, states the general authority of DNR to promulgate rules under this subchapter. The specific reference to DNR rule-making authority is repealed.

3 SECTION 213. 30.80 (2) of the statutes is amended to read:

4 30.80 (2) Any person violating s. 30.68 (2) shall be fined not more than \$200 or
5 imprisoned not more than 6 months or both. ~~Any person violating s. 30.68 shall be required~~
6 ~~to obtain a certificate of satisfactory completion of a safety course under s. 30.74 (1).~~

NOTE: The repealed language duplicates s. 30.80 (2m).

7 SECTION 214. 30.80 (3) of the statutes is amended to read:

8 30.80 (3) Any person violating s. 30.71 ~~or any rule promulgated under that section~~ shall
9 forfeit not more than \$100 for the first offense and shall forfeit not more than \$200 upon
10 conviction of the same offense a 2nd or subsequent time within one year.

11 SECTION 215. 30.80 (4) of the statutes is amended to read:

12 30.80 (4) Any person violating any provision of s. 30.72 ~~or the rules promulgated under~~
13 ~~s. 30.72~~ shall forfeit not more than \$100 for the first offense and shall forfeit not more than
14 \$200 upon conviction of the same offense a 2nd or subsequent time within one year.

NOTE: Section 30.5005 (1) (b), as created by this draft, states the general authority of DNR to promulgate rules under this subchapter. The specific reference to DNR rule-making authority in s. 30.80 (3) and (4) is repealed.

15 SECTION 216. 30.81 (1) (title) and (intro.) of the statutes are repealed and recreated to
16 read:

17 30.81 (1) (title) LOCAL REGULATION AUTHORIZED. (intro.) A local governmental unit,
18 as defined in s. 30.77 (1) (b), that has jurisdiction under s. 30.77 (4), (6) and (7) may, after
19 public hearing, enact ordinances that are not inconsistent with this chapter, relative to the use

1 or operation of boats and other craft, including snowmobiles and other motor vehicles, on
2 icebound inland waters.

3 **SECTION 217.** 30.81 (1m) and (2) of the statutes are repealed.

4 **SECTION 218.** 30.81 (3) of the statutes is amended to read:

5 30.81 (3) **LIABILITY OF LOCAL GOVERNMENT.** All traffic on icebound, inland waters shall
6 be at the risk of the traveler. An ordinance ~~by any municipality or any public inland lake~~
7 ~~protection and rehabilitation district that is~~ enacted under this section permitting traffic on
8 icebound inland waters shall not render ~~the municipality or lake district~~ local governmental
9 unit enacting the ordinance liable for any accident to those engaged in permitted traffic while
10 the ordinance is in effect.

11 **SECTION 219.** 30.81 (4) of the statutes is amended to read:

12 30.81 (4) **ENFORCEMENT.** A law enforcement officer of a ~~town, village or city~~ local
13 governmental unit that is subject to enacts an ordinance enacted under sub. (1) ~~or (1m)~~ has the
14 powers of sheriff in enforcing the ordinance on any portion of the ~~lake~~ waters, whether or not
15 that portion of the ~~lake~~ waters is within the jurisdiction of the ~~town, village or city~~ local
16 governmental unit for other purposes.

NOTE: The amendments to s. 30.81 expand the scope of local regulation of icebound waters, so that any local governmental unit that has jurisdiction and current authority to enact local ordinances under s. 30.77 may also enact ordinances for icebound waters. This authority applies to the same waters that may be regulated by the local governmental unit under s. 30.77. Although s. 30.77 is used to define the scope of local authority to regulate icebound waters, it should be noted that the procedures in s. 30.77 do not apply to these ordinances.

17 **SECTION 220.** 30.90 of the statutes is amended to read:

18 **30.90 Public access to Lake Lions Lake.** Neither the county or town may provide,
19 nor shall any subdivider be required or permitted to provide, public access to Lions Lake in

1 the town of Alban, Portage County, if such public access will in any way interfere with the use
2 of the lake as a recreational area for the physically handicapped as long as ~~such~~ that use is
3 continued. The department may stock ~~said~~ the lake with fish as long as ~~such~~ that use is
4 continued, any provision in ch. 29 to the contrary notwithstanding. The town board of the
5 town of Alban shall have jurisdiction over ~~Lake~~ Lions Lake, and may enact and enforce such
6 ordinances necessary to prevent any deterioration of the ~~said~~ the waters or any nuisances
7 which would adversely affect the public health or safety ~~of the people~~.

8 **SECTION 221.** Subchapter VI (title) of chapter 30 [precedes 30.95] of the statutes is
9 created to read:

10 **CHAPTER 30**

11 **SUBCHAPTER VI**

12 **ENFORCEMENT; PENALTIES**

13 **SECTION 222.** 30.96 (title) of the statutes is created to read:

14 **30.96 Infringement of public rights.**

15 **SECTION 223.** 30.98 (title) of the statutes is created to read:

16 **30.98 Penalties.**

17 **SECTION 224.** 30.98 (1) (title) of the statutes is created to read:

18 **30.98 (1) (title) VIOLATION OF PERMIT, CONTRACT OR ORDER.**

19 **SECTION 225.** 31.93 of the statutes is created to read:

20 **31.93 Enforcement of forfeitures.** The district attorney of the appropriate county or,
21 at the request of the department, the attorney general shall institute proceedings to recover any
22 forfeiture imposed or to abate any nuisance committed under this chapter.

23 **SECTION 226.** 33.475 of the statutes is amended to read:

1 **33.475 Boating fees.** Notwithstanding the prohibition in s. 30.77 ~~(1) against ordinances~~
2 ~~and local regulations that exclude any boat from the free use of the waters of the state (2),~~ and
3 in addition to the powers granted the county under ss. 30.77 ~~(3) (e) (5) (f) 5. to 7.~~ and 59.54
4 (2), the county may charge boat operators reasonable fees for the costs of providing other
5 recreational boating services not specified in ss. 30.77 ~~(3) (e) (5) (f) 5. to 7.~~ and 59.54 (2).

6 **SECTION 227.** 60.782 (1m) of the statutes is created to read:

7 **60.782 (1m)** In this section, the footage of shoreline shall be determined by use of a map
8 wheel on the U.S. geological survey 7-1/2 minute series map.

9 **SECTION 228.** 236.16 (3) (d) (intro.) of the statutes is amended to read:

10 **236.16 (3) (d) (intro.)** All of the owners of all of the land adjacent to a public access
11 established under par. (a) to an inland lake, as defined in s. 30.92 (1) (bk), may petition the city,
12 village, town or county that owns the public access to construct shoreline erosion control
13 measures. Subject to par. (e), the city, village, town or county shall construct the requested
14 shoreline erosion control measures or request the department of natural resources to determine
15 the need for shoreline erosion control measures. Upon receipt of a request under this
16 paragraph from a city, village, town or county, the department of natural resources shall follow
17 the procedures in s. ~~30.02 (3) and (4)~~ 30.245, treating the request for a determination as a
18 permit application. Subject to par. (e), the city, village, town or county shall construct
19 shoreline erosion control measures as required by the department of natural resources if the
20 department of natural resources determines all of the following:

21 **SECTION 229.** 299.05 (1) and (2) (a) of the statutes are amended to read:

22 **299.05 (1)** The department shall promulgate rules under which the department refunds
23 fees paid by an applicant for a license or approval that is issued under ss. ~~30.10 to 30.205 or~~
24 ~~30.21 to 30.27~~ subch. II of ch. 30, except for ss. 30.221 and 30.223, chs. 280 to 292 or subch.

II of ch. 295 and that is of a type specified in the rule if the department fails to make a determination on the application within the time limit specified in the rule for that type of license or approval. The rules under this subsection do not apply to an applicant for a license or other approval related to mining, as defined in s. 293.01 (9), prospecting, as defined in s. 293.01 (18), or nonmetallic mining, as defined in s. 295.11 (3).

(2) (a) Permits and other approvals under ~~ss. 30.10 to 30.205 and 30.21 to 30.27~~ subch. II of ch. 30, except for ss. 30.221 and 30.223.

SECTION 230. 709.03 (form) 27. of the statutes is renumbered 709.03 (form) C. 28..

SECTION 231. 709.03 (form) 27. of the statutes is created to read:

YES NO N/A

709.03 (form) C. 27. I am aware of drainage districts or other legally binding obligations that may require contributions to the cost of draining land.

NOTE: This adds a provision to the seller's disclosure form for residential real estate transactions.

SECTION 232. Nonstatutory provisions.

(1) ADVISORY COMMITTEE; RULES ON NAVIGABILITY. The department of natural resources shall appoint an advisory committee to advise and assist the department in drafting rules under section 30.04 (3) of the statutes, as created by this act. The department of natural resources shall appoint members to the advisory committee who represent a wide variety of knowledge, experience and interest in the navigable waters of this state.

(2) REPORT ON DRAINAGE OF AGRICULTURAL LAND. The department of agriculture, trade and consumer protection and the department of natural resources shall prepare a joint report

on the drainage of agricultural land, with particular emphasis on the drainage that occurs in organized drainage districts. The report shall describe all of the following:

(a) A summary of the history of each department's involvement with the supervision of and assistance to those involved in the drainage of land.

(b) The current statutory authority and responsibilities of each department with respect to the drainage of land.

(c) The current efforts of each department to carry out its authority and responsibility.

(d) The efforts of the departments to cooperate with each other with respect to the drainage of land, and the potential for increasing the level of cooperation between the departments.

(e) Any areas of disagreement between the departments regarding the authorities and responsibilities of each.

SECTION 233. Cross-reference changes. In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in column C:

A	B	C
Statute Sections	Old Cross-Reference	New Cross-Reference
20.370 (1) (mu)	30.203	30.355
20.370 (1) (mu)	30.277	30.361
20.370 (4) (bi)	30.28	30.243
20.370 (4) (mu)	30.203	30.355
20.370 (4) (mu)	30.277	30.361
20.370 (6) (ca)	30.275	30.359

1	20.370 (7) (aa)	30.203	30.355
2	23.09 (2) (d) 16.	30.24	30.357
3	23.09 (2r) (b)	30.277	30.361
4	23.0915 (1g)	30.277	30.361
5	23.0915 (1r) (c)	30.277	30.361
6	23.0915 (1r) (c)	30.277 (2) (a)	30.361 (2) (a)
7	23.0917 (3) (c) 1.	30.26	30.271
8	23.0917 (4) (b) 4.	30.277	30.361
9	23.0917 (7) (a)	30.24 (4)	30.357 (4)
10	23.0917 (7) (a)	30.277	30.361
11	23.0917 (7) (e)	30.277	30.361
12	23.096 (2) (a)	30.24	30.357
13	23.096 (2) (a)	30.277	30.361
14	23.197 (2) (a)	30.277 (5)	30.361 (5)
15	23.33 (13) (cg)	30.67 (3) (b)	30.67 (1) (b)
16	24.39 (4) (a) 1.	30.01	30.01 (3)
17	24.39 (4) (a) 2.	30.01	30.01 (4)
18	24.39 (4) (c)	30.11 (5)	30.343
19	24.39 (4) (f)	30.11 (5)	30.343
20	24.39 (4) (h)	30.11 (5)	30.343
21	24.39 (4) (i)	30.11	30.343

1	28.11 (12)	30.03 (4)	30.96
2	29.193 (1) (b)	30.77 (3)	30.77
3	29.193 (1) (b)	30.77 (3)	30.77
4	29.601 (3) (a)	30.12 (3) (a) 1.	30.12 (4) (a) 1.
5	29.601 (5) (a)	30.12 (4)	30.341
6	30.773 (2)	30.11	30.321
7	30.773 (3)	30.11	30.321
8	30.80 (2g) (intro.)	30.67 (1)	30.67 (1m)
9	30.92 (4) (b) 8. c.	30.74 (2) (b)	30.50 (1b)
10	30.92 (4) (b) 8. d.	30.74 (2) (b)	30.50 (1b)
11	31.39 (2m) (c)	30.28 (2) (a)	30.243 (2) (a)
12	33.455 (3) (b)	30.77 (3) (a)	30.77
13	33.455 (3) (b)	30.77 (3) (a)	30.77
14	33.46 (2) (c)	30.77 (3) (e)	30.77 (5) (f) 5. to 7.
15	33.46 (2) (c)	30.77 (3) (e)	30.77 (5) (f) 5. to 7.
16	60.0133 (3)	30.32	30.493
17	60.24 (3) (f)	30.37 (3)	30.497 (3)
18	61.351 (2m)	30.11	30.321
19	62.231 (2m)	30.11	30.321
20	84.18 (6)	30.12 (4)	30.341
21	85.095 (1) (a)	30.37	30.497

1	200.35 (4)	30.05	30.223
2	281.22 (2) (c)	30.28 (2) (a)	30.243 (2) (a)
3	281.35 (1) (b) 2.	30.18 (6) (c)	30.18 (4) (b)
4	281.37 (1) (a) 3.	30.26	30.271
5	281.37 (1) (a) 3.	30.275	30.359
6	295.16 (2)	30.30, 30.31	30.491, 30.492
7	295.16 (4) (j)	30.21	30.293
8	295.33 (4)	30.20 (2) (b)	30.20 (3) (b)
9	350.11 (2m)	30.67 (3) (b)	30.67 (1) (b)
10	895.55 (2) (intro.)	subch. IV	subch. III
11	938.17 (1) (intro.)	30.67 (1)	30.67 (1m)
12	938.396 (3)	30.67 (1)	30.67 (1m)
13	943.13 (4m) (c)	30.134	30.85
14	978.05 (6) (a)	30.03 (2)	30.97

SECTION 234. Initial applicability.

(1) LOCAL BOATING ORDINANCES. (a) Section 30.77 of the statutes, as affected by this act, first applies to an ordinance relating to the regulation of boating, that is enacted after the effective date of this subsection.

(b) Section 30.77 of the statutes, as affected by this act, applies to an ordinance relating to the regulation of boating that is enacted before the effective date of this subsection, if an amendment to the ordinance is enacted on or after the effective date of this subsection.

NOTE: This provision relates to the applicability of amended s. 30.77 to preexisting boating ordinances. The general rule established above is

that amended s. 30.77 applies prospectively only. That is, only local boating ordinances enacted after the effective date of the legislation are subject to the amended statute. This allows preexisting ordinances to be judged, in any challenge, by the statutory standards in place when the ordinance was adopted, and does not raise doubts about the authority for preexisting ordinances.

However, if a preexisting ordinance is amended after the effective date of this legislation, this provision makes the newly amended statute applicable to the entirety of the ordinance enacted before the effective date of the legislation. This avoids the confusion that would potentially result if preexisting portions of a boating ordinance were subject to the prior statute, and new or amended portions of the boating ordinance were subject to the amended statute. This does not mean that any portion of a preexisting ordinance must necessarily be amended when any portion of the ordinance is being amended or any new provision is being added to the ordinance. What it means is that a local governmental unit should review the preexisting ordinance in light of the amended statute, to determine if additional changes are necessary.

For the most part, the special committee believes that changes to preexisting ordinances will not be necessary. Most of the requirements in s. 30.77, as amended, are simply restatements and extensions of current statutory requirements.



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 16

TO: MEMBERS OF THE SPECIAL COMMITTEE ON NAVIGABLE WATERS
RECODIFICATION

FROM: Mark C. Patronskey, Senior Staff Attorney

RE: Organization of Subchs. II and VI of Ch. 30, Stats., in WLC: 0077/3

DATE: January 2, 2002

Attached to this Memo is an outline that shows the proposed organization of subchs. II and VI of ch. 30, Stats., pursuant to the renumbering of those provisions in WLC: 0077/3. Subchapter II contains the permits for structures, deposits and other activities in public trust waters. Subchapter VI (a new subchapter) contains general provisions that apply to ch. 30 in its entirety. The bill draft (WLC: 0077/3) has been previously distributed to Special Committee members.

The purpose of the attached outline is to show the new sequence of the statutes, as affected by WLC: 0077/3. Bill drafts are prepared in the current sequence of statutory numbering, so that some sort of aid, such as the attached outline, is necessary to visualize the proposed numbering sequence.

The outline includes subheadings in subch. II (e.g., "Navigability"). These subheadings are included in the outline only for the purpose of showing more clearly how the subject matter of subch. II has been organized. These subheadings will not appear in the statutes as affected by WLC: 0077/3.

Staff of the Special Committee continue to review the bill drafts, and several errors have been identified in WLC: 0077/3. The outline reflects the correct numbering, and any necessary changes will be made in the final bill draft submitted to the Special Committee for its approval.

MCP:rv:jal

Attachment

ORGANIZATION OF SUBCHS. II and VI in WLC: 0077/3

NOTES:

- (1) New numbering is at the left margin
- (2) Current statute numbers are in brackets
- (3) "See" means the new provision is similar to the bracketed statute
- (4) Unnumbered subheadings in subch. II show subject grouping but will not be part of the statutes

SUBCH. I---DEFINITIONS

SUBCH. II---PUBLIC TRUST WATERS

DNR

- Navigability Department;*
30.035 Powers and duties [new]
30.04 *Department;*
Rules [new]

NAVIGABILITY

- Navigability*
30.08 Determination of [see 30.10 (1) to (3)]
30.09 *of lands adjoining waters*
Riparian boundaries [30.10 (4) (b)]
30.095 *Prohibition against riparian rights*
Riparian conveyance of rights prohibited [30.133]

PERMITS; FOR SPECIFIC ACTIVITY

- 30.12 *and in nav waters prohibited w/o permit; exemption*
Structures, deposits [30.12 (1) to (3), (5)] *penalty*
30.123 *prohibited w/o permit*
Bridges [30.123 (2) to (4)]
30.13 Wharves, piers, swimming rafts [30.13 (1) to (2), (4), (5m)]
30.135 Water ski platforms, jumps [30.135]
30.18 Diversion of water [30.18]
30.19 Construction, connection, grading [30.19]
30.195

- Change stream course, straighten [30.195]
30.20 Remove material (contract, permit) [30.20]

EXEMPTIONS

- 30.213 Municipal bridges [30.123 (1), 30.10 (4) (a)] *Mun. Bridge constn.*
30.215 Farm drainage districts; no prior stream history [see 30.10 (4) (c)]
✓ 30.217 Unauthorized structures prior to Dec. 9, 1977 [30.122]

PERMITS; FOR CLASSES OF ACTIVITIES

- ✓ 30.221 General permit [30.206]
✓ 30.223 General permit pilot [30.207]

REGULATED ACTIVITIES; NO PERMIT

- 30.233 Activities within lakebed grants [30.05]
30.235 shores (30.124) 30.237 vehicles

PROCEDURES

- 30.243 Fees [30.28]
30.245 Notice; hearing [see 30.02]
□ 30.247 Hearings by DNR; wharf or pier violation [30.14 (2)]
30.249 DNR may rescind permit [30.07 (2)]

DNR DECISION ON PERMITS; GENERAL STANDARDS

- 30.251 Time limits for DNR decision [30.015]
30.253 DNR authority to impose permit conditions [new]
30.255 Lower Wisconsin State Riverway permits [30.027]
30.257 Time to complete work [30.07 (1)]

SPECIFIC WATERS

- 30.261 *Oak Creek*
Crayfish Creek [30.056]

30.263

Duck Creek [30.10 (4) (d), 30.12 (4m), 30.20 (1) (d)]

✓ 30.266 ~~30.265~~

Rafts on Wolf and Mississippi Rivers [30.126]

30.267

Big Silver Lake ordinary high-water mark [30.2037]

30.269

Wolf River protection [30.25]

30.271

Wild rivers program [30.26]

30.273

Lower St. Croix Riverway [30.27]

✓ **30.276**

Seawalls; Wolf R. and Fox R. [30.12 (3) (bt)]

✓ **30.278**

L. Koshkonong [30.2025]

✓ **30.279**

L. Belle View and Sugar R. [30.2026]

SPECIFIC PROVISIONS; NONCONFORMING USES

✓ **30.281**

Boathouses [30.121 (1) to (6)]

✓ **30.283**

Nonriparian piers [30.131]

SPECIFIC PROVISIONS; UTILITIES

✓ **30.293**

Utilities; use of bed of Great Lakes [30.21]

MUNICIPALITIES

out ✓ **30.313**

Authority to enclose waters with DNR permit [30.196]

✓ **30.321**

Bulkhead lines [30.11 (1) to (4), (6)]

30.323

Pierhead lines [30.13 (3), (6)]

30.325

Town sanitary dist. may set ordinary high-water mark [30.103]

30.327

Municipal duty; report violations [30.14 (1)] Municipality to report violations

DNR; RELATION TO FEDERAL AGENCIES

30.331

DNR waiver to avoid overlap [30.06]

30.333

Dredge disposal [30.202]

30.335

Water resources development projects [30.205]

DNR; RELATION TO STATE AGENCIES

30.341

DOT [30.12 (4)]

30.343

Board of Commissioners of Public Lands [30.11 (5)]

DNR ACTIVITIES AND AID PROGRAMS

30.351

Bird habitat [30.124]

30.353

DNR may raise water elevations [30.18 (8)]

30.355

Lake Winnebago project [30.203]

30.357

Bluff protection [30.24]

30.359

Scenic urban waterways [30.275]

30.361

Urban rivers [30.277]

30.373

Lake acidification experiment [30.204]

30.375

Adopt a river [30.265]

ENFORCEMENT—PENALTY AMOUNTS FOR SUBCH. II

30.381 (1)

[30.298 (1)]

30.381 (3)

[30.121 (7)]

30.381 (4)

[30.126 (10)]

30.381 (5)

[30.15 (1) (d) + same as 30.15 (3)]

30.381 (7)

[30.298 (2)]

30.381 (9)

[30.298 (3)]

30.381 (11)

[30.298 (5)]

SUBCH. III—LOWER WISCONSIN

SUBCH. IV—HARBORS

SUBCH. V—BOATING

SUBCH. VI—PENALTIES; ENFORCEMENT; ENTIRE CHAPTER

30.95

Removal of obstructions [30.16]

30.96

Alternative administrative hearing process [30.03 (4)]

30.97

District Attorney and Attorney General enforcement [30.03 (2)]

30.975

Public nuisance abatement [30.294]

30.98 (1)

Obstructions penalized [30.15 (1) (intro.) and (a) to (c)]

30.98 (2)

Obstructions; each day a violation [30.15 (2)]

30.98 (3)

Violation of a permit, contract or order [30.298 (4)]

30.99

Parties to a violation [30.99]

Date prepared: Dec 26, 2001



WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
Laura D. Rose, Deputy Director*

TO: MARY GIBSON GLASS
FROM: Mark C. Patronsky, Senior Staff Attorney *mcp*
RE: Errata Sheet for WLC: 0243/1, Relating to Recodification of ch. 30
DATE: May 22, 2002

This memorandum notes a number of minor technical errors in WLC: 0243/1, which is the final recommendation of the Special Committee on Navigable Waters Recodification. The Joint Legislative Council has approved this bill draft for introduction in the 2001-03 Legislature and it has been submitted to the Legislative Reference Bureau for drafting. Although it is no longer possible to introduce the bill in the 2001-02 Session, it is reasonable to assume that the Joint Legislative Council will vote to introduce it in the 2003-05 Legislative Session.

As in any project of this size and scope, minor drafting errors are inevitable. This memorandum notes some of them.

11/6 Prefatory note. In the paragraph that begins "The other 2 subchapters," the "and" at the end of that paragraph should be changed to "or."

11/6 ☒ Page 6, after line 2. The bill draft should amend subchapter I (title) to be "Definitions."

☒ Page 8, line 16, in the Note after the renumbering of s. 30.027. The reference to the Department of Natural Resources should be replaced by "DNR."

☒ Page 10, lines 13 and 16, in the creation of s. 30.04 (3) (c) and (d). "Public trust" should be replaced by "navigable."

☒ Page 10, line 21, which creates s. 30.04 (3) (f). This line should be deleted. The only use of the phrase "substantive written objection" is in s. 30.135 (3) (b) 1., and that statute currently has rule-making authority. The definition of "substantive written objection" is repealed by the draft. See the Note after the repeal of s. 30.01 (6) (b).

✓ Page 24, after line 14, after the repeal and recreation of s. 30.12. The second paragraph of the Note, commencing with "The criminal penalty," should be moved and included as a Note after s. 30.12 (5) (a), as created by the draft.

✓ Page 38, before line 1, in the Note after s. 30.19 (4) (b), as repealed and recreated by the draft. The last sentence of the Note should read as follows: "This exemption allows DNR to develop a 'short form' permit for grading or removing top soil from the bank where advance notice is given"

✓ Page 39, after line 5, in the Note after s. 30.19 (5), as repealed and recreated. Another sentence should be added at the end of the Note as follows: "However, current s. 30.05 (renumbered s. 30.223) continues to apply where lakebed grants have been made."

✓ Page 42, line 4, in s. 30.20 (3) (b), as repealed and recreated by the draft. "Public trust" should be changed to "navigable."

Page 42, after line 22, in the Note after the repeal and recreation of s. 30.20. The second reference to s. 30.20 should be changed to "30.02."

a ✓ Page 47, line 1, in s. 30.215 (2), as created by the draft. "Public trust" should be changed to "navigable."

✓ Page 48, line 5, in s. 30.245 (1) (b), as created by the draft. "In applicable" should be changed to "inapplicable."

✓ Page 48, line 10, in s. 30.245 (2), as created by the draft. "Where upon" should be changed to "whereupon." *changed wording*

✓ Page 49, line 11, in s. 30.245 (4) (a) 2., as created by the draft. "It can be determined" should be replaced by "the department may determine."

to here ✓ Page 50, lines 18 and 19, in s. 30.245 (5) (b), as created by the draft. "Notice is published under this paragraph" should be replaced by "conclusion of mediation upon failure to reach an agreement."

Page 111, lines 14 and 15, in s. 30.78 (1) (intro.), as repealed and recreated by the draft. "As defined in s. 30.77 (1) (b)," should be deleted. This term is defined in s. 30.50 (4) (u), as created by the draft.

Page 114, line 18, in s. 30.81 (1) (intro.), as repealed and recreated by the draft. "As defined in s. 30.77 (1) (b)," should be deleted. This term is defined in s. 30.50 (4) (u), as created by the draft.

Page 115, line 13, in s. 30.81 (4), as amended by the draft. The first "is" should be shown with a strike-through.

If you have any questions or need additional information, please contact me directly at the Legislative Council staff offices.

MCP:ksm;tlu